



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

MIDRASH AND MISHNAH
A STUDY IN THE EARLY HISTORY OF THE
HALAKAH

By JACOB Z. LAUTERBACH, Hebrew Union College.

III

IN the above we have ascertained the date and the reason for the introduction of the Mishnah-form, and have traced its gradual adoption by the teachers. Now that we know the motives for its first use, and the causes for its extensive adoption, we may be able to explain the strange silence of the talmudic-rabbinic sources concerning this significant change in the form of teaching and all its important consequences.

For this purpose we need only to review the main points in this whole process and examine them with reference to their possible effect upon the theories of the later Rabbis. We shall then be able to judge whether these later teachers had cause for ignoring these facts and for remaining silent about them.

We have found that the first motive for teaching independent Halakot in the Mishnah-form was the fact that during a period of time when there was no official activity of the teachers, certain customs and practices came to be observed by the people. These customs and practices subsequently had to be recognized and taught by the teachers as religious ordinances, although no proof or scriptural basis for them existed. This means that certain religious practices, considered by the later teachers as part

of the traditional law, or as handed down from Moses, originated in reality from other, perhaps non-Jewish, sources, and had no authority other than the authority of the people who adopted them. This, of course, reflects unfavourably upon the authority of the traditional law in general. We have, furthermore, seen that the teachers themselves could not agree in regard to the origin of certain laws. While some teachers endeavoured to find artificial supports for these laws, using even forced interpretations for the purpose of giving them scriptural endorsement, others preferred to accept them as traditional laws, presumably of ancient Jewish origin. This disagreement among the earlier teachers in regard to the origin and authority of certain laws speaks very strongly against two fundamental theories of the later talmudic teachers,—theories that were considered almost as dogmas. One is the belief in an oral law, *תורה שבעל פה*, handed down from Moses together with the written Torah. The second is the belief in the validity of the laws which the wise teachers derived from the Torah by means of their new interpretations, *מראש חכמים*. The disagreement noted above shows unmistakably that in earlier times these two theories were disputed and neither was accepted by all the teachers. For some teachers hesitated to recognize the authoritative character of certain laws merely on the ground that they were traditional. Therefore they felt constrained to seek proofs for these laws in the Torah. On the other hand, there were teachers who objected to the validity of the new interpretations by which certain laws were proved from Scriptures. They pinned their faith to the traditional character of these laws. Thus these earlier differences between the teachers could be used as a strong argument

against the authority of their teachings. This fear was actually entertained by the later teachers.

Again, we have seen, that one of the motives for using the Mishnah-form was the desire on the part of the Pharisaic teachers to assert their authority and indispensability. This is apparently at variance with another theory of the Talmud, viz. the belief that from Moses until the Tannaim there was an uninterrupted succession of teachers of the law, recognized as the chief religious authorities whose direct and undisputed successors were the Pharisees. However, the fact that the early Pharisaic teachers had to assert their authority against the opposition of the Sadducees, shows that these teachers were new claimants to authority. This fact, as we have seen, reveals the true state of affairs, viz. that the priestly teachers, the Sadducees, were originally the authoritative teachers, whom the Pharisees subsequently tried to supplant.

Thus, we see that the real conditions which accompanied the change from Midrash to Mishnah cast many unfavourable reflections upon the theories and views held by the later Pharisaic teachers, the Rabbis of the Talmud. We can, therefore, well understand the silence of the Rabbis about this important change. They did not care to dwell upon facts which, if misunderstood, would reflect on their theories. They hesitated to refer too frequently to circumstances from which some people might, by misinterpretation, draw such conclusions as would shake the foundation of the whole system of the traditional teachings.⁷⁸

⁷⁸ That the Pharisaic teachers had such apprehensions is evident from the following saying of R. Eleazar b. Azariah (or, according to Rashi, R. Joshua b. Hananiah) in *Hagigah* 3 b: *וכמסמרות נטוים מה נתיעה זו* פרא ורבה אף דברי תורה פרין ורבין בעלי אסופות אלו תלמידי חכמים

This was not done with the intention of suppressing historic facts, as they indeed mentioned these facts. They would speak of them to those pupils who were prepared to see things in their proper light, and were not disposed to misinterpret them. They deemed it unwise to discuss these matters before the pupils at large, fearing that there might be among them some who could be misled by opponents and thus arrive at erroneous conclusions. This is a course of conduct followed by the teachers in regard

שושבין אסופות וועסוקין בתורה הלו מטמאין והלו מטהרין
 הלו אסרך והלו מתרין הלו פוסלין והלו מכשרין. שמא יאמר אדם
 האיך אני למד תורה מעתה? תלמוד לומר כולם נתנו מרועה אחד, אל
 (compare also Num. r. XIV, 4). We have in this saying both a defence on the part
 of the Pharisaic teachers for making the Torah grow and increase so as to
 contain more than its plain words warrant, as well as a refutation of the
 arguments advanced against them that their very disagreement in many
 questions speaks against their having reliable traditions. Against this
 accusation the Pharisaic teachers insist that all their teachings come from
 the same source, the same leader, פָּרָנָס, Moses gave them in the name
 of God. We see from this that such arguments were raised against the
 Pharisees by their opponents, for the phrase, 'שָׁמָא יֹאמֶר אָדָם', 'Lest some
 might say', is here not meant altogether in a hypothetical sense. It refers
 to certain people who actually raised the question. Compare the saying:
 'יצחה בת קול ואמרה אלו ואלו דברי אלחيم חיים והלכה בבית הילל'
 'A heavenly voice was heard declaring that both the words of the School
 of Hillel and the words of the School of Shammai [despite their disagree-
 ments] are the words of the living God, but the practical decision should
 be according to the words of the School of Hillel' (Eruhin 13 b). Compare
 also the passage in Gittin 6 b, where Elijah is reported to have said that
 God 'declared both the opposing views of R. Abiathar and R. Jonathan
 to be the words of the living God. All these utterances were intended
 to serve as a refutation of the attacks made against the teachings of the
 Rabbis on account of their disagreements. We see from these covert
 replies of the Rabbis that the arguments of the Karaites against the
 Rabbanites (see below, note 85) were not original with the Karaites, but
 were repetitions of older arguments.

to still other subjects which they likewise deemed unsafe to communicate to the public at large.⁷⁹

This course was not altogether culpable, seeing that it was animated by no selfish motive, and that it was pursued for the sake of the cause which the Rabbis wished to serve. They were desirous of having their teachings accepted by the people as authoritative. They therefore refrained from dwelling upon the fact that there was once a time when some people did not accept these teachings as authoritative. Instead of reporting in detail the earlier struggles of the Pharisaic teachers for recognition, and their disputes with their opponents, they dwelt more frequently on the continuous chain of tradition by which they received their teachings. They mentioned only those teachers and members of the Sanhedrin who were of the Pharisaic party, whom they considered as having always been the true religious leaders of the people. They quite overlooked the fact that their opponents, the Sadducees, were the ruling authorities in former times. Instead of making explicit mention of the origin of the Mishnah-form, which would reveal the late date of so many traditional laws, they assumed the fact that the two Laws, the written and the oral, were both handed down by Moses through the agency of an uninterrupted chain of true teachers, the bearers of tradition. The result was that to most of the later teachers, especially the Amoraim, the origin and development of the Mishnah-form was almost unknown.

⁷⁹ The same was done with the records of the families which the Rabbis did not care to teach or discuss in public, fearing to cause unpleasant controversies. They would hand them over to their chosen pupils (b. Kiddushin 71 a). The same was the case with certain ineffable names of God which they communicated only to a few chosen pupils, lest the multitude misunderstand the significance of these names (*ibid.*).

The time when this change was made, the motives that caused it, and the circumstances that accompanied it, were almost forgotten. They were known only to a very few of the later teachers. These, like their predecessors, the early teachers, did not care to speak about them. The later Tannaim, and even the Amoraim, had the same reasons for avoiding the mention of these conditions that led to the adoption of the Mishnah-form as had the earlier Pharisaic teachers for their silence about these facts. Just as the earlier Pharisaic teachers, so the later teachers, i. e. the Rabbis, had to contend with more or less opposition. They had to combat those who denied their authority and rejected their teachings, i. e. the traditional law.

After the destruction of the Temple and the dissolution of the Jewish state, the Sadducees ceased to be a powerful party and lost their former influence among the people. However, it would be a mistake to assume with Büchler (*Der galiläische Am ha-Arez*, Wien 1906, p. 5) that in the beginning of the second century C. E. the Sadducees had altogether disappeared. They continued, if not as an influential party, nevertheless as a group of people holding peculiar views about the Torah, denying the binding character of the traditional law and rejecting the authority of the Rabbis who were the advocates of that traditional law. We have evidence of their existence throughout the entire tannaitic period.⁸⁰ Many sayings of the later

⁸⁰ R. Jose b. Halafta declares (M. Niddah IV, 2) that the daughters of the Sadducees are to be considered as daughters of Israel, except in cases where we know that they are determined to follow in their observance the ways of their forefathers (i. e. the former Sadducees). The reason for this view of R. Jose is found in his other saying where he states the following: בקיין אנו בהן יותר מן הכל והם מראות דם לחכמים חוץ 'מasha אחת שהויה בשכונתינו שלא הראתה דם לחכמים ומתה

Tannaim refer to them, though they do not always designate them expressly by the name Sadducees. They even

very well informed about them. They all show their blood to the wise teachers (i. e. the Rabbis). There was only one [Sadducean] woman in our neighbourhood who would not do so, but she is 'dead now' (Tosefta V, 3, b. Niddah 33 b). Buechler (*JQR.*, 1913, 446) erroneously takes this saying of R. Jose to be merely another version of what the high priest's wife told her husband. Such an interpretation of R. Jose's saying is absolutely unwarranted. R. Jose describes conditions prevalent in his own day. He justifies his attitude towards the Sadducean women by the information that, with few exceptions, they follow the Pharisaic regulations in observing the laws of menstruation. This shows that in the time of R. Jose b. Ḥalafta, i. e. about the middle of the second century c. e., there still were Sadducees. Their wives, however, would, in most cases, be guided by the decisions of the Rabbis in regard to the observance of the laws about menstruation. The same R. Jose also says (M. Parah III, 3), 'Do not give the Sadducees an opportunity to rebel (i. e. controvert us in argument)', and this again shows that in his time there were Sadducees who still argued against the teachers.

These Sadducees are also referred to, though not expressly designated by the name Sadducees, in the sayings of other teachers of that time. Thus the passage in Num. 15. 31, 'He hath despised the word of the Lord', is explained by R. Nathan in a Baraita (Sanhedrin 99 a) to refer to one who disregards the Mishnah, *כל מי שאינו משנה על המשנה*, that is to say, one who denies the traditional law. In another Baraita (*ibid.*) it is stated that the expression, 'He hath despised the word of the Lord', applies even to such people who would accept the entire Torah as divine but would take exception to a single detail in the traditional interpretation: *האומר כל התורה יכולה מן הדברים חוץ מדרוך זה ומזהה שהוא*. An anonymous saying in Sifra, Behukkotai II (Weiss 111 b) interprets the passage, 'But if ye will not hearken unto Me' (Lev. 26. 14), to mean, 'If ye will not hearken to the interpretation given by the teachers', *אם לא תשמעו למודש חכמים*. The saying continues and speaks of people who despise and hate the teachers although they accept the laws given on Sinai. All these utterances were certainly not made without provocation. There must have been people who accepted the Torah and disputed the rabbinical laws.

Another teacher, R. Jose b. Judah, living in the second half of the second century, rules that if a Gentile wishes to accept the Law with the exception of even one detail of the rabbinical regulations, we should not admit him as a proselyte (Tosefta, Demai II, 5; Bekorot 30 b). This shows that there

lingered on in the time of the Amoraim.⁸¹ Throughout the entire period of the Amoraim there were certain people

must have been Jews who rejected the rabbinical laws. Therefore it could occur to a Gentile that it was possible to become a Jew without accepting all the rabbinical laws.

This is also evident from the following story told in Jerushalmi, Shebiit IX, 39 a. A certain man who disregarded the regulations regarding the sabbatical year instructed his wife to be careful in separating the priest's share from the dough (hallah). His wife, to whom this conduct seemed inconsistent, asked him why he insisted on the observance of the hallah-law when he was disregarding the law about the sabbatical year. His answer was : The law of hallah is biblical, the regulations about the sabbatical year are rabbinical, having originated with R. Gamaliel and his colleagues, *חלה מרבית תורה גמליאל וחביריו*. This shows beyond any doubt that there were people who observed the Torah strictly but who denied the validity of the rabbinical teachings.

⁸¹ R. Hanina and Abba Areka (Rab), Amoraim of the first generation (first half of the third century c. e.), describe the Epicuros as one who despises the teachers, *המבהה תלמידי חכמים* (b. Sanhedrin 99 b). R. Johanan, an Amora of the second generation, and R. Eleazar b. Pedat, an Amora of the third generation (second half of the third century), characterize the Epicuros as one who says (in a tone expressive of contempt), 'That teacher', *בָּהּ דָאָמַר*, or as one who says, 'Those Rabbis', *בָּהּ דָאָמַר אֲחֵי סְפָרָא* (p. Sanhedrin X, 27 d). Buechler makes the mistake of reading *אַיִלָּן* instead of *בָּהּ*, and therefore makes the saying refer to 'a priest' who uses that contemptuous expression about the Rabbis (*Der Galiläische Am ha-Arež*, p. 187). This is palpably wrong. The same characterization of the Epicuros is given by R. Papa, an Amora of the fifth generation (second half of the fourth century) : *כָּנּוּ דָאָמַר הָנִי רַבָּנָן* (b. Sanhedrin 100 a). R. Joseph, an Amora of the third generation, applies the name Epicuros to a class of people who say, 'Of what use have the Rabbis been to us', *כָּנּוּ הָנִי דָאָמַר מַאֲи אָהָנוּ לְןָ רַבָּנָן* (*ibid.*). Raba, an Amora of the fourth generation (first half of the fourth century), refers to a certain family of Benjamin the physician who said, 'Of what use have the Rabbis been to us ; they have never allowed a raven or forbidden a dove' (*ibid.*). This is a saying which seems to express that we do not need the Rabbis, the biblical laws being clear enough. These people lived according to the Law, and as stated in the Talmud (*ibid.*) would occasionally consult Raba concerning some ritual question. Their ridiculing remark about the Rabbis was evidently the expression of their peculiar attitude towards the teachings of the Rabbis and of their opposition to the latter's authority.

who upheld the views and ideas of the old Sadducees. They were opposed to the authority of the Rabbis, and rejected their teachings. They were no longer called Sadducees. They were designated as 'Epicureans', פְּנִיקּוֹרִים, or referred to without any special name, merely as 'people who deny the authority of the Rabbis and reject the traditional law'. These anti-rabbinic elements of the talmudic period formed the connecting link between the older Sadducees and the later Karaites.⁸² Knowing, that the Sadducean tendencies continued throughout the entire period of the Talmud, and had both open and secret advocates, we can readily understand why the talmudic teachers hesitated to report indiscriminately all the details of the disputes between the Pharisees and Sadducees, and also all the differences of opinion and the disagreement as to methods among the Pharisees themselves. All these, as we have seen, were the causes that led to the adoption of the Mishnah-form. The talmudic teachers were careful not to place weapons in the hands of their opponents.

Thus the strange fact is explained why no explicit report about this matter was preserved in the talmudic literature. Only a few occasional remarks which escaped the teachers hint at the actual historic conditions, and they show us that a knowledge of the real facts did exist among some of the teachers.

The Geonim, likewise, seem to have had a purpose in avoiding the mention of these significant points in the historic development of the Halakah. When occasionally

⁸² Compare Friedmann in his Introduction to the *Seder Eliahu Rabba*, &c., Wien 1902, pp. 97–8, and Harkavy, *Zur Entstehung des Karaismus*, in Graetz's *Geschichte*, V, pp. 472 ff.

forced to speak about the same, they reveal by their very reticence as much as by their casual remarks that they had knowledge of the facts. We pointed out above the awkward pause in the letter of R. Sherira Gaon. In answer to the question of the people of Kairuan regarding the origin of the Mishnah and the Sifra and Sifre, the Gaon was compelled to speak about the Midrash and the Mishnah. He barely touches upon the subject of the Midrash, saying merely that this was originally the exclusive form. Here he stops abruptly and turns to another subject, viz. the Baraita collections of R. Hiyya and R. Oshaya. We might assume that something is missing in the text of the letter.⁸³ This, however, is improbable. It is almost evident that R. Sherira broke off in the middle of a thought, because he deemed it unwise to say any more about the adoption of the Mishnah-form in addition to the Midrash.

This reluctance on the part of the Geonim to speak about this subject is more noticeable in the responsum of R. Zemah Gaon. The people of Kairuan inquired of R. Zemah Gaon regarding the attitude to be taken towards Eldad. Eldad reported that in the Talmud of his own people the names of individual teachers were not mentioned. As in our Talmud differences of opinion and names of individual teachers are mentioned, they found this report of Eldad very strange. Zemah answered that this was not a reason for doubting the character of Eldad and his teachings, because the method described by Eldad was indeed the earlier mode of teaching. He states that in the time of the Temple, when they taught all the traditional law in the Midrash-form, they did not mention the names

⁸³ See above, note 9.

of individual teachers.⁸⁴ Now, this would seem to be a sufficient answer, and he should have stopped here. But R. Zemah Gaon adds the following significant words: *והתורה אחת היא בין במשנה בין בתלמוד ומן ענין אחד הכל שותין ואין נכון לפרש כל דבר, שנאמר כבוד אליהם הסתר דבר* The Torah is one. It is embodied in the Mishnah and in the Talmud. All draw from one and the same source. It is not advisable to explain everything, for it is said: It is the glory of God to conceal a thing (Prov. 25. 2). Why this mysterious admonition, and what was the secret he sought to hide? The account of the origin of the Mishnah-form, given above, will help us to understand the need for the admonition and the nature of the secret. The Karaites in the time of the Geonim denied that the teachings of the Mishnah and Talmud embodied the true tradition. They characterized these teachings as later rabbinic inventions. In support of their attitude they instanced the numerous disagreements and frequent disputes of the Rabbis of the Talmud. They argued, How could there have been tradition among the teachers when there was no agreement among them as to their teachings and Halakot.⁸⁵

We have seen above that the history of the development of the Mishnah-form reflects unfavourably upon the traditional character of the Pharisaic teachings. This was the reason for the talmudic silence about the origin of the Mishnah-form. The Geonim were silent on this point for the same reason. Neither Zemah nor Sherira wanted to state exactly how long the Midrash continued in exclusive

⁸⁴ See above, note 33.

⁸⁵ See, for instance, the arguments used by Sahl ben Maziah (Pinsker, *Likkute Kadmoniyot*, Nispahim, pp. 26, 35). The same arguments are raised by many other Karaitic writers.

use, for it would have shown that the Mishnah was of comparatively late origin, and that its adoption was due mainly to the differences of opinion that arose between the Pharisaic teachers and the earlier authorities, the Sadducees. When compelled to refer to the time when Midrash was in exclusive use, both Zemah and Sherira used the vague term 'במקרא' 'in the Temple times'. This, however, as we have seen, can refer only to the time before the division of the parties.⁸⁶

⁸⁶ It is possible that the use of the term **במקרא** in this peculiar sense was suggested to Zemah and Sherira by a passage in Mishnah Berakot IX, 5, where the term is likewise used in referring to a custom that was prevalent in the Temple during the time previous to the division of the parties. The passage in the Mishnah reads as follows: **כל חותמי ברכות שהוא במקרא** משליכלו הצדוקים ואמרו אין עולם אלא אחר ה' אומרים מן העולם משליכלו הצדוקים. **התקינו** **שיהו** אומרים מן העולם וער העולם

[The text in the editions of the Mishnayot reads **משקליכלו** **המינים**, but in the Talmud-editions the reading is **משליכלו** **הצדוקים**, which is the correct reading. Compare A. Schwartz, *Tosifat Zeraim* (Wilna, 1890), p. 57, note 189.] Here we have the report of a Pharisaic regulation aimed against the Sadducees who rejected the belief in a future world. Here the term **במקרא**, while designating the place, i. e. the Temple, also includes an element of time. 'In the Temple' evidently refers to the time prior to this Pharisaic regulation, i. e. prior to the division of the parties. The Pharisaic regulation reported in this passage originated in the very early days of the differences between the Sadducees and Pharisees, and not as Buechler (*Priester und Cultus*, p. 176) assumes, in the last decade of the existence of the Temple. This is evident from the fact that in the same paragraph the Mishnah reports another regulation which no doubt originated in the early days of the differences between the priests and lay teachers. This other regulation prescribed that a man should use the name of God in greeting his neighbour. This was either a reaction against the religious persecution under Antiochus when it was forbidden to mention the name of God (comp. b. *Rosh ha-Shanah* 18b and *Meg. Taanit* VII), or according to Geiger (*Jüdische Zeitschrift*, V, p. 107; comp. also *Urschrift*, pp. 264 ff.) it was to emphasize the claim of the Pharisees to use the name of God as the priests did. Anyhow, this second regulation originated in the very earliest days of the division of the parties. From this we may conclude that the first regulation also originated at the same time. It is quite evident that the author of this report in our

Sherira, who was merely asked about the origin of the Mishnah and the halakic Midrashim, could easily avoid mentioning anything he did not desire to state. He limited himself to answering the questions put before him. He stated that the Midrash was the earlier form, used exclusively in the earlier days of the second Temple. He was careful, however, not to define this period. He also told them the history of the Mishnah. He could well refrain from stating why the Mishnah was introduced as an additional form to the Midrash, for he was not expressly asked about this point. His questioners did not ask why a change in the form of teaching was made, and probably did not know that the Mishnah-form was the result of such an important change. Sherira did not find it necessary to enlighten them about this point.

R. Zemah found himself in a more difficult position. He was compelled to commit himself to some extent. He was expressly asked why in Eldad's Talmud no names are mentioned, while in our Talmud many names of debating teachers, representing conflicting opinions, are found. This question implied a doubt in the minds of the questioners concerning the authority of our Talmud. R. Zemah had to address himself to this doubt. He first admits that originally all teachings were given in the Midrash-form. Since in this form all teachings are presented as interpretations of the written Torah and not as opinions of the teachers, the names of the teachers were therefore not mentioned. He also avoids definite dates, using like Sherira the vague term 'in Temple times' to designate the period of the exclusive use of the Midrash. However, he still

Mishnah mentions these two regulations in the same paragraph to denote their simultaneous origin.

fears that the people might be led to doubt the traditional character of the Mishnah on account of the disputes and opposing views of individual teachers that are found in it. He therefore admonishes the questioners to entertain no doubts about the Mishnah and the Talmud, but to consider them as coming from the same source as the written Torah and as being one with the Torah. This admonition of R. Zemah Gaon is a warning against the Karaites of his day. It is of the same character as the warning uttered by Joshua b. Hananiah (*Hagigah* 3 b) against the Sadducees of his own time.⁸⁷

The result of our inquiry into the cause of the talmudic-rabbinic silence about our subject may be summed up in the following conclusions. The early Pharisaic teachers refrained from pointing to the causes for the adoption of the Mishnah-form, and to its effects upon the development of the Halakah, in order not to strengthen the position of their opponents, the Sadducees. The later talmudic teachers similarly avoided discussion of these subjects out of fear of those of their opponents who followed the old Sadducean doctrines. The Geonim, in like manner, refrained from mentioning these facts, in order not to place weapons in the hands of their opponents, the Karaites.

⁸⁷ At the end of his responsum (*Yellinek, Beth Hamidrash*, II, p. 113) Zemah repeats his warning not to deviate from the Talmud and the teachings of the Rabbis in the following words: *ונבר הווענו לבם שממעין אחד שממעין זעיר הווענו* *לכם שוחזקון במא שוחזקון דורשין לכם ובתלמוד שילמדו לכם הכל שותין וחתזקון במא שוחזקון דורשין לכם ובתלמוד שילמדו לכם ואל חטו ימי' ושמאל מאחרי כל דבריהם שכן כחוב על פי התורה אשר יורוך ועל המשפט אשר יאמרו לכם תעשו.* This repetition of the admonition and the citation of the passage in Deut. 17. 11, so often used by the Rabbis is support of the authority of their traditional teachings, further proves that Zemah aimed to allay any disquieting doubts in the minds of the people in regard to the traditional character of the Rabbinical teachings.

IV

SAADYA'S STATEMENT CONCERNING THE BEGINNINGS
OF THE MISHNAH.

In the course of our discussion, we have proved from a talmudic report as well as from certain utterances of the Geonim, that the first introduction of the Mishnah-form took place in the last days of Jose b. Joezer. There is but one gaonic statement about the beginnings of the Mishnah which seems to be at variance with this conclusion. I refer to the statement of Saadya Gaon in his *Sefer Hagaluj* (Schechter, *Saadyana*, p. 5; also quoted by a Karaitic writer, see Harkavy, *Studien und Mitteilungen*, V, p. 194).

This statement of Saadya places the time for the beginnings of the Mishnah soon after prophecy ceased, in the fourtieth year of the second Temple. This is apparently a much earlier date than the time of Jose b. Joezer. A closer examination, however, will show that the period to which Saadya assigns the beginnings of the Mishnah is actually the same as the one which we have found given in the Talmud and indicated by the Geonim R. Zemah and R. Sherira, viz. the time of Jose b. Joezer. It is merely due to the faulty chronology, followed by Saadya, that his date appears to be earlier than the one which we fixed on the basis of the evidence derived from the Talmud and the statements of R. Zemah and R. Sherira.

We must keep in mind that Saadya followed the rabbinic chronology as given in *Seder Olam* and in the Talmud. This chronology, however, at least in so far as

it relates to the earlier period of the second Temple, is absolutely incorrect. In order to be able to fix the actual time to which Saadya's date refers, we must first point out the peculiarities of the talmudic-rabbinic chronology which he followed. To account for the errors and the confusion in this chronology, it is sufficient to know its character. It is an artificial chronology, constructed by the later teachers for the apparent purpose of establishing a direct connexion between the true teachers of the Law, that is to say, the Pharisees, and the prophets, and thus to prove the authority of the Pharisaic teachers and the traditional character of their teachings. Such a direct connexion between the prophets and the Pharisaic teachers of the traditional law could be established only by utterly ignoring the time during which the priests were the sole religious teachers and leaders, and consequently contracting long stretches of time into short periods. Hence all the inaccuracies in this artificial and faulty chronology.

The Rabbis assume that the Pharisaic teachers received the Law, as well as all their traditional teachings, directly from the prophets. In their chronology, therefore, the prophets are succeeded not by the priestly teachers, the *כהנים*, but by the *חכמים*, the wise lay-teachers. This is expressed by the Rabbis in the statement: *עד כאן נתנו לנו הנביאים ברוח הקודש מכאן ואילך הם לבך ושמעו דברי חכמים* (Seder Olam Rabba, XXX; comp. also Seder Olam Zutta, VII). By *חכמים* are evidently meant *ישראל*, lay-teachers, or more exactly, Pharisaic teachers, in contradistinction to the priests or Sadducees, the *כהנים*. This is confirmed by the fact that in passages in the Mishnah and the Tosefta which likewise contain the idea that the wise teachers directly succeeded the prophets, the *Zuggot* are expressly

mentioned. Thus in Mishnah Peah II, 6 and Tosefta Jadayyim II, 16, we read that the Zuggot, that is to say, the earliest Pharisaic teachers, received traditional laws directly from the prophets, *שקיבלו מזונות שקבלו מן הנביאים*.

The same idea also underlies the statement in Mishnah Abot I, according to which the Zuggot received the law from the last members of the Great Synagogue. For, according to the Rabbis, this Great Synagogue also included the last prophets among its members. There is only one slight difference between the line of succession as given in M. Abot and that given in M. Peah and Tosefta Jadayyim, namely, that the name of Antigonos is mentioned in the former between the Zuggot and the Great Synagogue. However, in stating the authority from whom the first pair received the Law, the Mishnah (Abot I, 4) uses the words *קיבלו מיהם* 'they received from them'. This clearly shows that the first pair, the two Joses, did not receive the law from Antigonos alone. For, if this were the case, the Mishnah would have said: *קיבלו ממנו* 'they received from him'. The expression *קיבלו מיהם* warrants the supposition that the two Joses received the Law from the last members of the Great Synagogue, or perhaps Antigonos was considered to have been the younger colleague of Simon. According to this supposition there is no discrepancy between all these talmudic reports. They all assume that the last members of the Great Synagogue, among whom were also the last prophets, transmitted the Law and the traditions directly to the Zuggot or חכמים, i. e. the earliest Pharisaic teachers.

This transmission of the Law by the prophets to the wise teachers, or the disappearance of the prophets and the rise of the חכמים, the Pharisaic teachers, took place

according to the Rabbis, in the time of Alexander the Great, shortly after the overthrow of the Persian Empire (*Seder Olam Rabba* and *Zutta*, *l.c.*). This rabbinic chronology finds no difficulty in extending the time of the last prophets to the end of the Persian period. For by some peculiar error, which we are unable to account for, the Rabbis reduced the entire period of the existence of the second Temple under Persian rule to thirty-four years. They assume that thirty-four years after the second Temple was built, the Persian rule in Judea ceased and the Greek rule began (*Seder Olam Rabba*, *l.c.*, and *Shabbat*, 15 a). Accordingly, it was not found strange that Haggai who urged the building of the Temple as well as the other prophets of his time, should have lived to the end of the Persian period and have handed over the Law and the traditions to their successors, the חכמים, or wise lay-teachers at that time.

How the Rabbis could identify these חכמים with the Zuggot, so that the latter, living in the second century B.C., could be considered the direct recipients of the Law from the last prophets at the end of the fourth century B.C., is not difficult to explain. The Rabbis had a tradition that the High Priest in the time of Alexander the Great was Simon the Just (I) (*Yoma* 69 a). They also had a reliable report of a high-priest Simon the Just (II) who lived shortly before the time of the Zuggot, either a little before or contemporary with Antigonos. These two Simons they confused with one another. They identified Simon the Just II, who lived about 200 B.C., with Simon the Just I, one of the last survivors of the Great Synagogue who lived at the end of the fourth or the beginning of the third century B.C. In this manner they established a direct

connexion between the prophets who were among the last members of the Great Synagogue and the Zuggot or the חכמים, the wise lay-teachers, who were the fathers of the Pharisaic party. They were probably unaware of the fact that they passed over an interval of an entire century, or it may be that they consciously ignored it, because, as we have seen, there was no official activity of the teachers during that period.

According to this faulty chronology, then, the Zuggot, or the first pair, Jose b. Joezer and Jose b. Johanan, succeeded the prophets, or the last members of the Great Synagogue, and commenced their activity as teachers of the Law shortly after the overthrow of the Persian Empire by Alexander ; that is to say, not much later than the year 34 of the second Temple. And it is actually this time, i. e. the time of the two Joses, that Saadya fixes for the beginnings of the Mishnah. The meaning of the passage in Saadya's *Sefer Hagaluj* is now clear, and its date fully agrees with our date for the beginnings of the Mishnah. The passage reads as follows : *וַיְהִי כִּי מַלְאָו לְמַתָּנה אֶלָּפֶשׁ שְׁנִים מֵימִי* : *משֶׁה אִישׁ הָאֱלֹהִים לְתִם יִתְּהַגֵּד הַנְּבִיאִים בְּמִלְכֹות מְדִינָה וְנַחֲחוּ חֹזֶן בְּשָׁנָה אֶחָד עֲשֵׂר בְּכָנּוֹת הַבִּירָה שְׁנִית בְּמַעַט עַמְּדָה וְבָרָאָת הַוּרִינָה אֶת הַהַמּוֹן כִּי נִפְזֵץ בְּכָל הָאָרֶץ וַיְנוּרְוּ עַל הַהָנָא לְבָלָתִי הַשְׁכָּחָה וַיַּאֲסִפּוּ כָל מָלָה אֲשֶׁר הָעֲתִיקָה מִן קָדָם לְמַצְחָה וְלַחֲקָקָה לְיהוָה (Schechter suggests the reading לְשִׁרְאָל) וַיַּעֲשָׂה וַיְמַלֵּא מִלְאָתָה תְּכָנָה וַיַּקְרָא אֶת שְׁמָם מִשְׁנָה וַיְלַעֲדוּת וַיְמַלְאָו בְּמִדְעָה מִלְאָתָה תְּכָנָה .*

We may, therefore, assume with certainty that Saadya had a correct tradition that the teaching of Mishnah was first begun in the time of the first pair, the two Joses. But, misguided by the erroneous rabbinic chronology which he followed, he puts the date of this first pair in the year 40 of the second Temple.

The conditions which, according to Saadya, caused the

teachers to begin the composition of Mishnah, also point to the time of the two Joses. For, as Saadya assumes, what prompted the teachers to seek to preserve their teachings in Mishnah-form was the fact that the Jewish people were then scattered all over the earth, and the teachers feared that the study of the Law might be forgotten, *בראות הורינו את החמן כי נפץ בכל הארץ יגנוו על התנא לבלתי השכח*. These conditions actually prevailed in the time of the two Joses. From the Sibylline Oracle III, 271, we learn that about the middle of the second century B.C. the Jewish people had already scattered all over the earth, and were to be found in every land (comp. Schürer, *Geschichte*, III⁴, p. 4). Indeed, the decree of the two Joses declaring the lands of the Gentiles unclean (*Shabbat* 15 a) may have been issued for the very purpose of stopping this extensive emigration of the people into foreign lands (see Weiss, *Dor*, I, p. 99).

Again, from the quotation of Saadya's statement by the Karaitic writer, it would seem that Saadya designated the teachers, who first composed Mishnah, by the name of אבות. If this be so, if Saadya really applied the term to these teachers, he could have had in mind only the earliest Pharisaic teachers, or the Zuggot, who are called in the Talmud (p. *Hagigah* 77 d) אבות העולם. I am, however, inclined to think that Saadya did not use the term אבות in referring to these teachers. Saadya probably used the term הורינו, as we find it in the Hebrew text (edition Schechter), and which simply means, our fore-fathers. The Karaitic writer who quotes Saadya's statement translated this Hebrew word by the Arabic *أَلَّا نَبْأَنْ*.

Our contention that Saadya's date refers to the time

of Jose b. Joezer might be objected to on the ground that according to Saadya (Schechter, *l.c.*) it took about 500 years from the beginnings of the Mishnah to the final completion of our Mishnah. If, then, Saadya's date coincides with the time of Jose b. Joezer, the actual time between the beginnings of the Mishnah and the completion of our Mishnah is scarcely 400 years. This objection, however, can easily be removed. Here again the mistake is due to the faulty chronology followed by Saadya. Having placed the beginnings of the Mishnah, i. e. the time of the first pair, in the year 40 of the second Temple, and assuming that our Mishnah was completed 150 years after the destruction of the second Temple, Saadya had to extend the period of the Mishnah to 530 years. For, according to the talmudic chronology, the second Temple existed 420 years. Accordingly the period of time which elapsed between the year 40 of the second Temple and the year 150 after its destruction was 530 years. This number was actually given by Saadya, as quoted by the Karaitic writer. The copyist, however, by mistake wrote $\text{ל}'\text{ת}=510$, instead of $\text{ל}'\text{ת}=530$ (see Harkavy, *op. cit.*, p. 195, note 6). The number 500 years, לשנים חמש מאות , assigned to the period of the Mishnah in *Sefer Hagaluj* (edition Schechter, p. 5), probably represents a round number, as Schechter (*l.c.*) correctly remarks.